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10/087,465	03/01/2002	Timo Tokkonen	872.0114.U1(US)	9071

			EXAMINER
29683	7590	07/19/2006	MOE, AUNG SOE

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ART UNIT	PAPER NUMBER
2618	

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/087,465	TOKKONEN ET AL.
	Examiner	Art Unit	
	Aung S. Moe	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>08 June 2006</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4; 6-8; 10-22; 26-27; 32; 36-37; 39-44 and 47* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-4,6-8,11-18,20-22,36,37,39,40,42-44 and 47* is/are allowed.

6)☒ Claim(s) *10, 19, 26-27, 32 and 41* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 6/8/2006 with respect to claims 10, 19, 32 and 41 have been

fully considered but they are not persuasive.

Regarding claims 10, the Applicant alleged, "Kahn '875 does not disclose or suggest a

wireless communication transceiver and an antenna connected to the transceiver, and means for

automatically transmitting the file from the mobile electronic apparatus through the transceiver

and the antenna to a wireless communication network base station as recited in claim 10."

In response, the Examiner respectfully disagrees because Kahn '875 clearly shows in Fig.

9 that the device 110 can be a mobile telephone having an aerial/antenna 140, thus, it is cleared

that the antenna 140 must be connected to the conventional wireless communication transceiver

for establishing a communication with the base station of the wireless communication network as

required present claimed invention, thus, the use of "transceiver" and "wireless base station" is

considered inherent features in the wireless communication device of Kahn '875. In addition, it

is noted that the claim language of present claimed invention does not explicitly define what

"file" is automatically transmitting to the base station from the wireless device. In this case, it is

inherent to the wireless telephone like the one shown in Fig. 9 of Kahn '875 to automatically

transmit the file containing a control data from the mobile electronic device (110) to the wireless

base station to maintain/establish communication so that the location of the wireless mobile

telephone would be known/registered at the base station, thus, the Examiner believes that

teaching of Kahn '875 does in fact discloses "mans for automatically transmitting the file to the

wireless base station network" as required by present claimed invention.

Regarding claims 19, 32 and 41, the applicant alleged, "Kahn '875 does not disclose or

suggest that its algorithm used for freeing the device memory is capable of learning the user's

behavior."

In response, the Examiner respectfully disagrees because Kahn '875 clearly discloses in

the paragraphs 0113-0118 that the processing means uses an algorithm for freeing the device

memory based on the priority rating held in associating with each image in the device memory

by the user, and a user may be able to set weighting to influence the decision process made by

the processing means. In particular, Kahn '875 discloses in paragraphs 0118 that the algorithm

is capable of learning the user handling of the file over time to determine the priority level, for

example, if the user frequently recalling an image record from the device memory, then the

algorithm used by the processing means would determine such image as high priority rating

based on the learns behavior of a user's frequent access to the image. In addition, Kahn '875

also discussed in paragraphs 0124 that the algorithm determined by the use patterns of a user for

freeing up the memory space.

In view of the above, the Examiner believes that the algorithm used in the system of

Kahn '875 is capable of learning the user's behavior in order to determine the priority rating of

the image file stored in the device memory.

As for claim 26-27, the Applicant alleged, "Kahn '875 fails to show **automatically**

moving the file based at least partially upon the prioritizing comprising transferring the file from

the mobile electronic apparatus by a wireless communication link."

In response, the Examiner respectfully disagrees because Kahn '875 clearly discloses in

paragraphs 0128 and 0132 that when the camera (i.e., the mobile electronic apparatus as

claimed) established a link, such as a wireless communication 44, with the PC, Image records in

the camera memory that have not already been saved on a storage means of the computer are

automatically transferred to the PC, thus backing up that image. Further, Kahn '875 stated in

paragraphs 0133+ that the image file transferred to the PC over the wireless communication link

is based at least partially upon the prioritizing such as "the last image recorded" in the memory

of the device (i.e., as discussed in paragraphs 0047+and 0151+, the data/time and tag/references

are used as the prioritization parameters associated with each of the stored image files to

automatically transfer the last image recorded in the device memory to the remote CPU, thus, the

back-up file automatically transfer to the PC is based at least partially upon the prioritizing as

claimed; also see Fig. 8).

In view of the above, the Examiner asserts that Kahn '875 does in fact show

automatically moving the file as recited in claim 26.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

3.   Claims 10 and 26-27 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

In claim 10, it is unclear how "**the file**" recited in line 16 related to the "user stored files" as recited in line 3? If there are the same "file", please change "the file" recited in line 16 to - - the user stored file - -.

In claim 26, it is unclear how "**the file**" recited in line 13 related to the "user stored files" as recited in line 2? If there are the same "file", please change "the file" recited in line 16 to - - the user stored file - -.

Noted that claim 27 is depending on the rejected claim 26 as discussed above, thus, claim 27 is rejected for the same reason as discussed for claim 26 above.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and **exact terms** as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5.   Claims 26-27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is noted that the newly added limitations in claim 26, "automatically moving the file based at least **partially upon the prioritizing**" is not clearly described in the specification in such a way as to enable one skilled in the art to which it pertains. If the Applicant believes such features are disclosed in the original disclosure, please indicate the location of such teaching in the original disclosure to clarify this matter.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7.   Claims 10, 19, 32, and 41 are rejected under 35 U.S.C. 102(e) as being anticipated by

Kahn et al (U.S. 2001/0050875 A1).

Regarding claim 10, Kahn '875 discloses a wireless communication transceiver and an

antenna connected to a transceiver (i.e., as discussed in paragraphs 0065+ and 0154+, the mobile

device 10/110 can be a wireless telephone having an antenna 140, so that the information can be

transmitted by using a wireless link and a network connection. In view of this, the use of

transceiver is considered as an inherent feature of the mobile device 10/110), and the means for

automatically moving (i.e., as shown in Fig. 4 and further discussed in paragraphs 0132-1036,

Kahn '875 clearly shown that user stored files from the mobile device 10/110 can be

automatically move to the remote device, e.g., remote computer, as a backup files) comprises

means for transmitting (i.e., see paragraphs 0044+, 0065+ and 0128+) the file from the mobile

electronic apparatus through the transceiver and the antenna to a wireless communication

network base station (i.e., noted the use of antenna 140 as shown in Fig. 9, and as discussed in

paragraphs 0065-0066, the mobile wireless phone of Kahn '875 establishes a communication on

a network connection must use a wireless communication, thus, it's considered inherent features

of the wireless network communication system of Kahn '875).

Regarding claim 19, Kahn '875 discloses mobile electronic apparatus (i.e., see Figs. 1

and 9) comprising:

a memory (i.e., noted the memory circuits 16, 18 and external memory unit as discussed

in paragraph 0096+ of Kahn '875) comprising user stored files therein (i.e., noted the user stored

files, such as photo still image, video, and audio/music as discussed in paragraphs 0097 and

0100), each user stored file having more than one different prioritization parameter associated

therewith (i.e., as discussed in paragraphs 0017+, 0051+, 0057, 0130+, 0113 and 0145-0150, the

priority rating preferences, age of the user stored files, size of the user stored files, the number of

time user stored file is reproduced/viewed, compression level and quality/resolution of the user

stored files can be considered as different prioritization parameter for prioritizing the user stored

file), wherein the user stored files comprise non-operating system files (i.e., as discussed in

paragraphs 0097 and 0100, the user stored files can be still image, video and audio/music type of

non-operating system file which is input by a user into the digital portable device 10/110 as

shown in Figs 1 and 9); and

a system for prioritizing the user stored files in the memory relative to one another (i.e.,

noted that the user stored files, such as image, video and sound files, are relative to one another;

see paragraphs 0100),

the system comprising means for prioritizing the user stored files relative to each other

based upon a priority value established for the files by a combination of at least two of the

different prioritization parameters (i.e., as discussed in paragraphs 0017+, 0051+, 0057, 0130+,

0113 and 0145-0150, it is noted that sound, video, a number of images stored are related to each

other based upon a priority rating values by using the different prioritization parameters, such as

age of the user stored files, size of the user stored files, the number of time user stored file is

reproduced/viewed, compression level and quality/resolution of the user stored files, thus, it is

cleared that combination of different prioritization parameters, e.g., the "quality" and "age" of

the files can be used as parameters for high/low priority rating, are used to assigned a priority

rating values to the user stored records held within the device memory);

wherein the system for prioritizing comprises a learning algorithm that learns behavior of

a user's low prioritization file handling over time, and changes prioritization weights given to

predetermined ones of the parameters based upon the learned behavior (i.e., it is noted that the

algorithm used for freeing the device memory is capable of learning the user's behavior of

accessing/using the files over time to change the priority level of the files by setting weighting to

influence the learned behavior; see paragraphs 0113+, 0123+ and 0148+ of Kahn '875).

Regarding claim 26, Kahn '875 discloses a method of prioritizing a plurality of user-

stored files relative to each other in a mobile electronic apparatus (i.e., noted the user stored files

located in the device memory 16 and 18 of the mobile device 10/110 as shown in Figs. 1-2 and

9-10; see paragraphs 0096-0100) comprising steps of:

storing the user stored, non-operating system files in a memory of the mobile electronic

apparatus (i.e., as discussed in paragraphs 0097 and 0100, the user stored files can be still image,

video and audio/music type of non-operating system file which is input by a user into the digital

portable device 10/110 as shown in Figs 1 and 9);

associating more than one different prioritization parameter with each user stored file

(i.e., as discussed in paragraphs 0017+, 0051+, 0057, 0130+, 0113 and 0145-0150, the priority

rating preferences, age of the user stored files, size of the user stored files, the number of time

user stored file is reproduced/viewed, compression level and quality/resolution of the user stored

files are used as a different prioritization parameter for associating with each user stored file

during the prioritization process of the user stored file in the mobile device 10/110);

and prioritizing the user stored files (i.e., noted the image, video and audio/music files

stored in the device memory as discussed in paragraphs 0100) relative to each other based upon a

priority value established for each of the files by a combination of at least two of the

prioritization parameters associated with each of the files (i.e., as discussed in paragraphs 0017+,

0051+, 0057, 0130+, 0113 and 0145-0150, it is noted that sound, video, a number of images

stored are related to each other based upon a priority rating values by using the different

prioritization parameters, such as age of the user stored files, size of the user stored files, the

number of time user stored file is reproduced/viewed, compression level and quality/resolution

of the user stored files, thus, it is cleared that combination of different prioritization parameters

are used to assigned a priority rating values to the user stored records held within the device

memory);

automatically moving the file based at least partially upon the prioritizing comprising

transferring the file from the mobile electronic apparatus by a wireless communication link (i.e.,

as shown in Figs. 4 and 8, the mobile electronic apparatus 10/110 established a wireless

communication 44 link with the PC, and image records in the camera memory that have not

already been saved on a storage means of the computer are **automatically** transferred to the PC,

thus backing up that image. Further, Kahn '875 stated in paragraphs 0133+ that the image file

transferred to the PC over the wireless communication link is based at least partially upon the

prioritizing such as "the last image recorded" in the memory of the device. Further, as discussed

in paragraphs 0047+and 0151+, the data/time and tag/references are used as the prioritization

parameters associated with each of the stored image files to automatically transfer the last image

recorded in the device memory to the remote CPU, thus, the back-up file automatically transfer

to the PC is based at least partially upon the prioritizing as claimed).

Regarding claim 27, Kahn '875 discloses a method as in claim 26 wherein the mobile

electronic apparatus comprises a radio frequency transmitter and the wireless communication

link comprises a radio frequency link (i.e., as discussed in paragraphs 0065-0066, 0128 and

0153+, the mobile device 10/110 can be a wireless phone for transmitting the information over

the wireless communication link).

Regarding claim 32, Kahn '875 discloses a method of prioritizing a plurality of user-

stored files relative to each other in a mobile electronic apparatus (i.e., noted the user stored files

located in the device memory 16 and 18 of the mobile device 10/110 as shown in Figs. 1-2 and

9-10; see paragraphs 0096-0100) comprising steps of:

storing the user stored, non-operating system files in a memory of the mobile electronic

apparatus (i.e., as discussed in paragraphs 0097 and 0100, the user stored files can be still image,

video and audio/music type of non-operating system file which is input by a user into the digital

portable device 10/110 as shown in Figs 1 and 9);

associating more than one different prioritization parameter with each user stored file

(i.e., as discussed in paragraphs 0017+, 0051+, 0057, 0130+, 0113 and 0145-0150, the priority

rating preferences, age of the user stored files, size of the user stored files, the number of time

user stored file is reproduced/viewed, compression level and quality/resolution of the user stored

files are used as a different prioritization parameter for associating with each user stored file

during the prioritization process of the user stored file in the mobile device 10/110);

and prioritizing the user stored, non-operating system files (i.e., noted the image, video

and audio/music files stored in the device memory as discussed in paragraphs 0100) relative to

each other based upon a priority value established for each of the files by a combination of at

least two of the prioritization parameters associated with each of the files (i.e., as discussed in

paragraphs 0017+, 0051+, 0057, 0130+, 0113 and 0145-0150, it is noted that sound, video, a

number of images stored are related to each other based upon a priority rating values by using

the different prioritization parameters, such as age of the user stored files, size of the user stored

files, the number of time user stored file is reproduced/viewed, compression level and

quality/resolution of the user stored files, thus, it is cleared that combination of different

prioritization parameters are used to assigned a priority rating values to the user stored records

held within the device memory; also see the Examiner's comment with respect to claim 19

above);

wherein the step of prioritizing the user stored files relative to each other comprises a

learning algorithm that learns behavior of a user's low prioritization file handling over time, and

changes prioritization weights given to predetermined ones of the parameters based upon the

learned behavior (i.e., it is noted that the algorithm used for freeing the device memory is

capable of learning the user's behavior of accessing/using the files over time to change the

priority level of the files by setting weighting to influence the learned behavior; see paragraphs

0113+, 0123+ and 0148+ of Kahn '875).

Regarding claim 41, Kahn '875 discloses an electronic device (i.e., see Figs. 1, 2, 9 and

10) comprising:

a memory comprising a plurality of user stored files therein (i.e., noted the image, video

and sound/music files stored in the device memory by the user as discussed in paragraphs

0096+), each user stored file having more than one different prioritization parameter associated

therewith (i.e., as discussed in paragraphs 0017+, 0051+, 0057, 0130+, 0113 and 0145-0150, the

priority rating preferences, age of the user stored files, size of the user stored files, the number of

time user stored file is reproduced/viewed, compression level and quality/resolution of the user

stored files are used as first prioritization parameter for associating with each user stored file

during the prioritization process of the user stored file in the mobile device 10/110), wherein the

user stored files comprise non-operating system files including photograph, video and/or music

files (i.e., see paragraphs 0100); and

a prioritization system for prioritizing the user stored files in the memory relative to one

another (i.e., noted that the user stored files, such as image, video and sound files, are relative to

one another by a prioritization system 14 of the electronic device 10/110; see paragraphs 0100+

and 0113+),

the prioritization system being adapted to prioritize the user stored files in the memory

relative to each other based upon a priority value established for the files by a combination of at

least two of the different prioritization parameters (i.e., as discussed in paragraphs 0017+, 0051+,

0057, 0130+, 0113 and 0145-0150, it is noted that sound, video, a number of images stored are

related to each other based upon a priority rating values by using the different prioritization

parameters, such as age of the user stored files, size of the user stored files, the number of time

user stored file is reproduced/viewed, compression level and quality/resolution of the user stored

files, thus, it is cleared that combination of different prioritization parameters, e.g., the "quality"

and "age" of the files can be used for high/low priority rating, are used to assigned a priority

rating values to the user stored records held within the device memory);

wherein the system for prioritizing comprises a learning algorithm that learns behavior of

a user's low prioritization file handling over time, and changes prioritization weights given to

predetermined ones of the parameters based upon the learned behavior (i.e., it is noted that the

algorithm used for freeing the device memory is capable of learning the user's behavior of

accessing/using the files over time to change the priority level of the files by setting weighting to

influence the learned behavior; see paragraphs 0113+, 0123+ and 0148+ of Kahn '875).

Allowable Subject Matter

8.   Claims 1-4, 6-8, 11-18, 20-22, 36-37, 39-40, 42-44 and 47 are allowed.

9.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

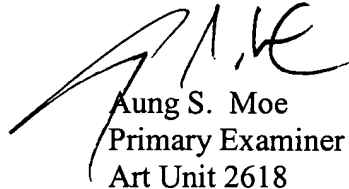Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Aung S. Moe whose telephone number is 571-272-7314. The

examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Edward F. Urban can be reached on 571-272-7899. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Aung S. Moe
Primary Examiner
Art Unit 2618

A. Moe
July 13, 2006